

Cite as 2018 Ark. 304
SUPREME COURT OF ARKANSAS
No. CV-18-722

RANDY ZOOK, INDIVIDUALLY AND
ON BEHALF OF ARKANSANS FOR
COMMON SENSE TERM LIMITS, A
BALLOT QUESTION COMMITTEE
PETITIONER

V.

MARK MARTIN, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF STATE
OF THE STATE OF ARKANSAS
RESPONDENT

ARKANSAS TERM LIMITS, A BALLOT
QUESTION COMMITTEE
INTERVENOR

Opinion Delivered: October 19, 2018

AN ORIGINAL ACTION

PETITION GRANTED; COUNT I
MOOT.

JOHN DAN KEMP, Chief Justice

In this original action, petitioner Randy Zook, individually and on behalf of Arkansans for Common Sense Term Limits, a ballot-question committee, challenges a proposed initiative constitutional amendment, known as Issue No. 3, with the popular name “The Arkansas Term Limits Amendment” (“proposed amendment”).¹ Arkansas

¹ Article 5, section 1 of the Arkansas Constitution, incorporating amendment 7, governs both statewide and local initiatives and referenda. Amendment 7 states that “[t]he sufficiency of all state-wide petitions shall be decided in the first instance by the Secretary of State, subject to review by the Supreme Court of the State, which shall have original and exclusive jurisdiction over all such causes.” Ark. Const. art. 5, § 1, amended by Ark. Const. amend. 7; *see* Ark. Sup. Ct. R. 6-5(a) (“The Supreme Court shall have original jurisdiction

Term Limits (“Intervenor”), a ballot-question committee, sponsored the proposed amendment. Zook seeks to enjoin respondent, Mark Martin, in his official capacity as Secretary of State, from placing the proposed amendment on the November 6, 2018 general-election ballot and from counting or certifying any votes cast for the proposed amendment. The petition asserts two bases for relief. Count I is a challenge to the adequacy of the proposed amendment’s popular name and ballot title, and count II challenges the petition and signature-gathering process under which Martin certified the proposed amendment. We granted Zook’s motion to bifurcate the proceedings and appointed a special master to make findings on count II. *See Zook v. Martin*, 2018 Ark. 254 (per curiam). This opinion concerns count I, which was submitted directly to this court because a ballot title’s sufficiency is decided as a matter of law. *Ross v. Martin*, 2016 Ark. 362.

In *Zook v. Martin*, 2018 Ark. 306, also handed down on this date, we accepted the special master’s finding that there was an insufficient number of signatures to qualify the proposed amendment for the November 6, 2018 general-election ballot, and we granted the petition. Our holding in that case renders count I moot. *See Lange v. Martin*, 2016 Ark. 363 (stating that an issue is moot when a decision by this court would have no practical legal effect on a then existing legal controversy). This court does not decide cases that are moot, render advisory opinions, or answer academic questions. *See, e.g., Ark. State Med. Bd.*

in extraordinary actions as required by law, such as suits attacking the validity of statewide petitions filed under Amendment 7 of the Arkansas Constitution.”).

v. Schoen, 338 Ark. 762, 1 S.W.3d 430 (1999). Therefore, we hold that count I is moot, and we grant the petition.

Petition granted; count I moot.

Mandate to issue immediately.

BAKER and HART, JJ., dissent.

KAREN R. BAKER, Justice, dissenting. Because I dissented in Count II in *Zook v. Martin*, 2018 Ark. 306, handed down today, and would hold that Arkansas Term Limits submitted a sufficient number of signatures for its proposed amendment to appear on the November 2018 ballot, I dissent from the majority opinion holding Count I moot. Rather than hold the petition moot, I would reach the merits of Count I. Accordingly, I dissent.

HART, J., joins.

Friday, Eldredge & Clark, LLP, by: *Elizabeth Robben Murray, Ellen Owens Smith, Joshua C. Ashley*, and *Allison C. Pearson*, for petitioner.

AJ Kelly, Deputy Secretary of State and General Counsel; and *Michael Fincher*, Associate General Counsel, for respondent.

Graves Garrett LLC, by: *Edward D. Greim, Alan T. Simpson*, and *Garrett W. Hunkins*; and *Quattlebaum, Grooms & Tull PLLC*, by: *Chad W. Pekron* and *Brittany S. Ford*, for intervenor.